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# Request of additional clarification on ’imposing more stringent requirements’ and the role of European Standards.

CENELEC asked the GC ESC questions in letter “Harmonization of requirements in Europe and need for clarification on certain requirements” dated 26th of November 2016. Most of the questions have been clarified, latest at the GC ESC meeting on June 7th 2017. However, one important question of those (question 5) has not yet been sufficiently clarified to continue the standardization work within CENELEC in an efficient manner, and thus undertake an efficient national implementation of the Network Code Requirement for Generators (NC RfG).

The question deals with the legal framework for imposing more stringent requirements than specified in the NC RfG and the role of European Standards. The issue is there is not a common understanding of the legal framework in that regard.

The aim of this document is to describe the challenges stakeholders, especially manufactures and DSOs, are facing due to the abovementioned issue. Furthermore, the document aims to provide the necessary clarity in implementing the legal framework.

**Legal Framework**

In the following, the relevant legal framework is listed:

Directive 714/2009 article 8(7) allows national network codes as long they do not affect cross border trade. Furthermore, the same article states that the network codes (including NC RfG) are developed to regulate requirements which affect cross border network or cross border market integration issues.

> 7. The network codes shall be developed for cross-border network issues and market integration issues and shall be without prejudice to the Member States' right to establish national network codes which do not affect cross-border trade.

NC RfG state that harmonization of the requirements is a way to ensure market integration and Technical Standards such as existing EN, TS … are a relevant reference for harmonization purposes. This is stated in recital no. (27).

> (27) The regulatory authorities, Member States and system operators should ensure that, in the process of developing and approving the requirements for network connection, they are harmonised to the extent possible, in order to ensure full market integration. Established technical standards should be taken into particular consideration in the development of connection requirements.

and in article 7(2)(f)

(f) take into consideration agreed European standards and technical specifications.

NC RfG furthermore states that Transmission System Operators (TSO) and Relevant System Operators (RSO) should implement the Network Code in the most efficient way with the lowest costs for all stakeholders involved:

(c) apply the principle of optimisation between the highest overall efficiency and lowest total costs for all parties involved;

Directive 72/2009 states that technical rules should be applied to ensure interoperability between systems and installations.

*Article 5*

**Technical rules**

The regulatory authorities where Member States have so provided or Member States shall ensure that technical safety criteria are defined and that technical rules establishing the minimum technical design and operational requirements for the connection to the system of generating installations, distribution systems, directly connected consumers' equipment, interconnector circuits and direct lines are developed and made public. Those technical rules shall ensure the interoperability of systems and shall be objective and non-discriminatory. The Agency may make appropriate recommendations towards achieving compatibility of those rules, where appropriate. Those rules shall be notified to the Commission in accordance with Article 8 of Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations and of rules on Information Society services ([1]).

**Statements from the European Commission (EC) are needed**

The EC plays a key role to create a common understanding of the legal framework among member states and stakeholders, and by doing so foster an efficient national implementation of the NC RfG.

It is clear that the EC cannot provide binding answers, however by providing clear statements on the ECs understanding of the legal framework and the role of European Standards, great value is added to standardization work and the national implementation.

In addition to the ECs understanding of the legal framework, recommendation on how European Standards can be used to support the intention of the EC to reach a higher level of harmonization would be of great value.

**What are the challenges?**

To be more specific on the challenges stakeholders are facing, identified challenges are described in the following:

1. NC RfG does not cover all needed requirements, especially requirements related to the local distribution grid. For example Power Quality and Safety.

   *To ensure the technical quality in and a safe and reliable operation of the distribution grid, the RSOs needs to specify requirements that are not in the scope of the NC RfG. These requirements may be parts of technical standards also relating to NC RfG (eg ENs under development). Nevertheless there is not a common understanding of the legal framework among stakeholders for applying those requirements. It is unclear when Directive 714/2009 article 8(7) is violated and which weight Directive 72/2009 article 5 has if there is a conflict between the two directives.*

2. NC RfG allows requirements to be specified at national level

   *RSOs and TSOs are entitled to specify requirements at national level, which introduce a highly probable risk for a low level of harmonization. This may impose additional costs for manufacturers to adapt their products to each member state. It also may impose additional administration costs to DSOs, especially in smaller countries, as not all manufactures adopt their products for those relatively small markets. It is unclear when NC RfG article 7(2)(c) and (f) are violated when standards and technical specification exists.*

3. NC RfG does not specify requirements in such detail that manufacturers can design their equipment, nor that compliance or noncompliance can by clearly stated.

   *The requirements specified in NC RfG are not specified in such detail which can be used for equipment design and for testing. This introduce a highly probable risk that showing compliance cannot be clearly stated as each stakeholder can have their own opinion on when compliance is met. This is not an acceptable situation for manufactures nor TSOs and RSOs. It is unclear if NC RfG article 7(2)(c) and (f) are violated when standards and technical specification exists.*

Summing up the three challenges, there is a need for clarification of the legal framework related to imposing more stringent and more detailed requirements at European level.

**What needs to be clarified?**

In the following, a number of statements are made. Confirming these statements will contribute to clarification of the legal framework. In confirming the statements it is important to consider the abovementioned legal framework:

1. Are requirements which are not dealt with in the NC RfG (eg power quality requirements) to be considered as illegitimate more stringent requirements?

   *Power quality requirements are needed to ensure the interoperability of installations and the distribution grid.*

2. Are requirements which are dealt with in the NC RfG for some type of generators (LVRT and reactive power requirements for Type B, C and D) to be considered as illegitimate more stringent requirements if they are imposed to other type of generators (Type A) during national implementation?

   *Not where LVRT capabilities are required to ensure the interoperability of installations and the electric power system. In some cases the volumes of Type A generators, overall generation mix and the nature of transmission faults will require the extension of LVRT requirements to Type A on a local or synchronous area basis.*

   *Not where the reactive power requirements are needed on a local basis to meet the voltage management requirements of the distribution grid.*

3. Are additional requirements to requirements dealt with in the NC RfG (accuracy of control and response times) to be considered as illegitimate more stringent requirements or as needed detailed requirements?

   *Specification of accuracy and response times are needed to ensure the system needs are met and for manufactures to design their equipment, state the required compliance and provide a baseline for compliance assessment/tests.*

In relation to the expression of the requirements:

- Those requirements are not considered as illegitimate more stringent requirements when they originate from a European Standard or Technical Specification and referenced in national legislation?
or
- Those requirements are not considered as illegitimate more stringent requirements if they are specified in national legislation?

**CENELEC stakeholders understanding**

In summary, our understanding is….

European Standards and technical specifications can help to increase overall harmonization and at the same time contribute to a more efficient implementation of the NC RfG in all member states. However, this requires that there is a common understanding of the legal frame work and how European Standards can support the national implementation.

Requirements specified in European Standards or Technical Specifications – and not in conflict with the NC RfG are not to be considered as illegitimate more stringent requirements but as further harmonization. Additionally, since European Standards and Technical Specifications by default are adopted in all CENELEC member states, they cannot impact negatively cross border trade. For example requirements for safety, power quality (voltage imbalance, flicker, overvoltage, transient overvoltage, short interruptions…) fall in this category.

Technical standards (EN or TS) are to be used as voluntary technical reference and provide a common technical framework. In that case, they encompass harmonized requirements (with National deviations, where needed) and test methods. Nevertheless, it does not prevent manufacturers, using of the standards, to design - and Certification Bodies to issue certificates- for a single country, a group of countries or all countries.

Requirements specified in national legislation or as deviations to ENs or TSs may be considered as Illegitimate more stringent requirements if they are conflicting with NC RfG requirements and are not justified with reference to 72/2009 article 5 and approved by the NRA.